

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10531 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO  
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

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VANRAJBHAI RATNABHAI THAKOR

Versus

DY DIRECTOR AGRICULTURE TRAINING CENTRE

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Appearance:

1. Special Civil Application No. 10531 of 1994  
MR RV DESAI for Petitioner No. 1  
Mr. H.C. Patel, AGP for Respondent No. 1

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CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 11/10/2002

ORAL JUDGEMENT

Heard learned advocate Mr. P.K. Shukla for the petitioner and Mr. H.C. Patel, learned AGP for the respondents. By way of this petition, the petitioner has challenged the award made by the labour Court, Ahmedabad in Reference No. 570 of 1989 dated 30.8.1993. Under the said award, the labour court has granted reinstatement with 25 per cent of the back wages for the intervening period. Therefore, the petitioner has challenged the

award in so far as it relates to refusal of back wages to the extent of 75 per cent for the intervening period.

Learned advocate Mr. Shukla for the petitioner has submitted that the labour Court has committed error in denying to grant full back wages. He has submitted that the labour court ought to have appreciated that the other side has not been able to prove gainful employment of the petitioner and ought to have granted full back wages.

Learned AGP Mr. Patel appearing for the respondents has submitted that the labour Court has rightly appreciated the facts and circumstances of the case. He has submitted that the labour court has considered the short duration of service of the petitioner and has also considered that the respondent is a Government establishment. According to him, the labour court has not committed any error in granting only 25 per cent of the back wages in view of the short duration of the petitioner.

I have perused the award made by the labour court. I have also considered the submissions made by the learned advocates for the parties. It is an admitted fact that the petitioner was appointed on periodical basis from 8.9.1986 and he worked upto 20.1.1989. Thus, he worked on a periodical basis from 8.9.1986 to 20.1.1989 i.e. less than three years. This being the periodical appointment on daily wage basis, total service is less than two years. While considering the question of back wages, the labour court has considered this aspect. Thereafter, the labour court has also considered that the petitioner was examined before the labour Court on 27.9.1991, after two years from the date of reference made by the concerned authority on 10.8.1989. The labour court has also considered that the petitioner was working on daily wage basis, on periodical basis and the respondent is a Government Department. Therefore, keeping in view the short duration of service of the petitioner and also the fact that the respondent is a Government Department, the labour Court has granted only 25 per cent and has refused to grant remaining 75 per cent of the back wages for the intervening period.

According to my opinion, the labour court has rightly decided the reference and was also right in not granting full back wages keeping in view the short duration of service of the petitioner as stated above. Learned advocate Mr. Shukla for the petitioner has not been able to point out any infirmity and/or jurisdictional error committed by the labour court in

granting only 25 per cent back wages for the intervening period. According to my opinion, the labour court has rightly exercised the discretion as regards back wages while granting reinstatement. Therefore, there is no error apparent on the face of the record which would require interference of this court in this petition under Article 226 and/or 227 of the Constitution of India.

In view of the above discussion, this petition is dismissed. Rule is discharged.

Dt. 11.10.2002. (H.K. Rathod,J.)

Vyas